

EXHIBIT A

BELLSOUTH EXHIBIT A

DISPUTED CONTRACT LANGUAGE BY ISSUE

GENERAL TERMS AND CONDITIONS

Item No. 4, Issue No. G-4 [Section 10.4.1]: What should be the limitation on each Party's liability in circumstances other than gross negligence or willful misconduct?

- 10.4.1 [BellSouth Version] Except for any indemnification obligations of the Parties hereunder, and except in cases of the provisioning Party's gross negligence or willful misconduct, each Party's liability to the other for any loss, cost, claim, injury, liability or expense, including reasonable attorneys' fees relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.

Item No. 5, Issue No. G-5 [Section 10.4.2]: If the CLEC elects not to place in its contracts with end users and/or tariffs standard industry limitations of liability, who should bear the risks that result from this business decision?

- 10.4.2 [BellSouth Version] Limitations in Tariffs. A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users, customers and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to the End User, customer or third party for (i) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such loss and (ii) consequential damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss.

Item No. 6, Issue No. G-6 [Section 10.4.4]: How should

indirect, incidental or consequential damages be defined for purposes of the Agreement?

- 10.4.4 [BellSouth Version] Nothing in this Section 10 shall limit a Party's obligation to indemnify or hold harmless the other Party set forth elsewhere in this Agreement. Except in cases of gross negligence or willful or intentional misconduct, under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

Item No. 7, Issue No. G-7 [Section 10.5]: What should the indemnification obligations of the parties be under this Agreement?

- 10.5 [BellSouth Version] Indemnification for Certain Claims. The Party providing services hereunder, its Affiliates and its parent company, shall be indemnified, **defended and held harmless, except to the extent caused by the providing Party's gross negligence or willful misconduct**, by the Party receiving services hereunder against any claim, **loss or damage arising from the receiving Party's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications, or (2) any claim, loss or damage claimed by the End User or customer of the Party receiving services arising from such company's use or reliance on the providing Party's services, actions, duties, or obligations** arising out of this Agreement.

Item No. 9, Issue No. G-9 [Section 13.1]: Should a party be allowed to take a dispute concerning the interpretation or implementation of any provision of the agreement to a Court of law for resolution without first exhausting its administrative remedies?

- 13.1 [BellSouth Version] Except for procedures that outline the resolution of billing disputes which are set forth in Section 2 of Attachment 7 or as otherwise set forth in this Agreement, each Party agrees to notify the other Party in writing of a dispute concerning this Agreement. If the Parties are unable to resolve the issues

relating to the dispute in the normal course of business then either Party shall file a complaint with the Commission to resolve such issues or, as explicitly otherwise provided for in this Agreement, may proceed with any other remedy pursuant to law or equity as provided for in this Section 13.

- 13.2 **Except as otherwise stated in this Agreement, or for such matters which lie outside the jurisdiction or expertise of the Commission or FCC, if any dispute arises as to the enforcement of terms and conditions of this Agreement, and/or as to the interpretation of any provision of this Agreement, the aggrieved Party, to the extent seeking resolution of such dispute, must seek such resolution before the Commission or the FCC in accordance with the Act. Each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement. Either Party may seek expedited resolution by the Commission. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement; provided, however, that neither Party shall be required to act in an unlawful fashion.**
- 13.3 **Except to the extent the Commission is authorized to grant temporary equitable relief with respect to a dispute arising as to the enforcement of terms and conditions of this Agreement, and/or as to the interpretation of any provision of this Agreement, this Section 13 shall not prevent either Party from seeking any temporary equitable relief, including a temporary restraining order, in a court of competent jurisdiction.**
- 13.4 **In addition to Sections 13.1 and 13.2 above, each Party shall have the right to seek legal and equitable remedies on any and all legal and equitable theories in any court of competent jurisdiction for any and all claims, causes of action, or other proceedings not arising: (i) as to the enforcement of any provision of this Agreement, or (ii) as to the enforcement or interpretation under applicable federal or state telecommunications law. Moreover, if the Commission would not have authority to grant an award of damages after issuing a ruling finding fault or liability in connection with a dispute under this Agreement, either Party may pursue such award in any court of competent jurisdiction after such Commission finding.**

<i>Item No. 12, Issue No. G-12 [Section 32.2]: Should the Agreement explicitly state that all existing state and federal laws, rules, regulations, and decisions apply unless otherwise specifically agreed to by the Parties?</i>
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- 32.2 **[BellSouth Version] This Agreement is intended to memorialize the Parties' mutual agreement with respect to their obligations under the Act and applicable FCC and Commission rules and orders. To the extent that either**

Party asserts that an obligation, right or other requirement, not expressly memorialized herein, is applicable under this Agreement by virtue of a reference to an FCC or Commission rule or order or, with respect to substantive Telecommunications law only, Applicable Law, and such obligation, right or other requirement is disputed by the other Party, the Party asserting that such obligation, right or other requirement is applicable shall petition the Commission for resolution of the dispute and the Parties agree that any finding by the Commission that such obligation, right or other requirement exists shall be applied prospectively by the Parties upon amendment of the Agreement to include such obligation, right or other requirement and any necessary rates, terms and conditions, and the Party that failed to perform such obligation, right or other requirement shall be held harmless from any liability for such failure until the obligation, right or other requirement is expressly included in this Agreement by a amendment hereto.

ATTACHMENT 2

NETWORK ELEMENTS AND OTHER SERVICES

Item No. 26, Issue No. 2-8 [Section 1.13]: Should BellSouth be required to commingle UNEs or Combinations with any service, network element or other offering that it is obligated to make available pursuant to Section 271 of the Act?

- 1.13 [BellSouth Version] Notwithstanding any other provision of this Agreement, BellSouth will not commingle UNEs or Combinations of UNEs with any service, Network Element or other offering that it is obligated to make available only pursuant to Section 271 of the Act. Nothing in this Section shall prevent <<customer_short_name>> from commingling Network Elements with tariffed special access loops and transport services.

*Item No. 36, Issue No. 2-18 [Section 2.12.1]: (A) How should Line Conditioning be defined in the Agreement?
(B) What should BellSouth's obligations be with respect to line conditioning?*

- 2.12.1 [BellSouth Version] Line Conditioning is defined as a RNM that BellSouth regularly undertakes to provide xDSL services to its own customers. This may include the removal of any device, from a copper loop or copper sub-loop that may diminish the capability of the loop or sub-loop to deliver high-speed switched wireline telecommunications capability, including xDSL service. Such devices include, but are not limited to; load coils, low pass filters, and range extenders. Insofar as it is technically feasible, BellSouth shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

Item No. 37, Issue No. 2-19 [Section 2.12.2]: Should the Agreement contain specific provisions limiting the availability of load coil removal to copper loops of 18,000 feet or less?

- 2.12.2 [BellSouth Version] BellSouth will remove load coils only on copper loops and sub loops that are less than 18,000 feet in length. BellSouth will remove load coils on copper loops and sub loops that are greater than 18,000 feet in length upon <<customer_short_name>>'s request at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties.

Item No. 38, Issue No. 2-20 [Sections 2.12.3, 2.12.4]: Under what rates, terms and conditions should BellSouth be required to perform Line Conditioning to remove bridged taps?

- 2.12.3 [BellSouth Version] Any copper loop being ordered by <<customer_short_name>> which has over 6,000 feet of combined bridged tap will be modified, upon request from <<customer_short_name>>, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to <<customer_short_name>>. Line conditioning orders that require the removal of bridged tap **that serves no network design purpose on a copper loop that will result in a combined level of bridged tap between 2,500 and 6,000 feet** will be performed at the rates set forth in Exhibit A of this Attachment.
- 2.12.4 [BellSouth Version] <<customer_short_name>> may request removal of any **unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet which serves no network design purpose)**, at rates pursuant to **BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties.**

Item No. 51, Issue No. 2-33 [Sections 5.2.6, 5.2.6.1]:
(A) This issue has been resolved.
(B) Should there be a notice requirement for BellSouth to conduct an audit and what should the notice include?
(C) Who should conduct the audit and how should the audit be performed?

- 5.2.6 [BellSouth Version] To invoke its limited right to audit, BellSouth will send a Notice of Audit to <<customer_short_name>> identifying the cause upon which BellSouth rests its allegations. Such Notice of Audit will be delivered to <<customer_short_name>> no less than thirty (30) calendar days prior to the date upon which BellSouth seeks to commence the audit.
- 5.2.6.1 [BellSouth Version] The audit shall be conducted by a third party independent auditor retained and paid for by BellSouth. The audit shall commence at a mutually agreeable location (or locations).

ATTACHMENT 3

INTERCONNECTION

*Item No. 65, Issue No. 3-6, 10.8.1 (NSC/NVX): **This issue has been resolved with XSP but not NSC/NVX. Should BellSouth be allowed to charge the CLEC a Tandem Intermediary Charge for the transport and termination of Local Transit Traffic and ISP-Bound Transit Traffic?***

- 10.10.1 [BellSouth's Version] Each Party shall provide tandem switching and transport services for the other Party's Transit Traffic. Rates for Local Transit Traffic and ISP-Bound Transit Traffic shall be the applicable Call Transport and Termination charges (i.e., common transport and tandem switching charges and **tandem intermediary charge**; end office switching charge is not applicable) as set forth in Exhibit A to this Attachment. Rates for Switched Access Transit Traffic shall be the applicable charges as set forth in the applicable Party's Commission approved Interstate or Intrastate Switched Access tariffs as filed and effective with the FCC or Commission, or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff. Billing associated with all Transit Traffic shall be pursuant to MECAB guidelines.

ATTACHMENT 6

ORDERING

Item No. 86, Issue No. 6-3 [Sections 2.5.6.2, 2.5.6.3]: (A) This issue has been resolved. (B) How should disputes over alleged unauthorized access to CSR information be handled under the Agreement?

- 2.5.5.2 [BellSouth Version] Notice of Noncompliance. If, after receipt of a requested LOA, the requesting Party determines that the other Party has accessed CSR information without having obtained the proper end user authorization, or, if no LOA is provided by the seventh (7th) business day after such request has been made, the requesting Party will send written notice by email to the other Party specifying the alleged noncompliance.
- 2.5.5.3 [BellSouth Version] Disputes over Alleged Noncompliance. In its **written notice to the other Party** the alleging Party will state **that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if such use is not corrected or ceased by the fifth (5th) calendar day following the date of the notice.** In addition, the alleging Party may, at the same time, provide written notice by email to the person designated by the other Party to receive notices of noncompliance that the alleging Party may terminate the provision of access to ordering systems to the other Party and may discontinue the provisioning of existing services if such use is not corrected or ceased by the tenth (10th) calendar day following the date of the initial notice. If the other Party disagrees with the alleging Party's allegations of **unauthorized use**, the alleging Party shall proceed pursuant to the dispute resolution provisions set forth in the General Terms and Conditions. All such information obtained through the process set forth in this Section 2.5.5 shall be deemed Information covered by the Proprietary and Confidential Information Section in the General Terms and Conditions of this Agreement.

ATTACHMENT 7

BILLING

Item No. 97, Issue No. 7-3 [Section 1.4]: When should payment of charges for service be due?

- 1.4 [BellSouth Version] Payment Due. Payment for services will be due **on or before the next bill date (Payment Due Date)** and is payable in immediately available funds. Payment is considered to have been made when received by the billing Party.¹

Item No. 100, Issue No. 7-6 [Section 1.7.2]: To avoid suspension or termination, should CLEC be required to pay additional amounts that become past due after Notice of Suspension or Termination for Nonpayment is sent?

- 1.7.2 [BellSouth Version] **BellSouth** reserves the right to suspend or terminate service for nonpayment. If payment of amounts not subject to a billing dispute, as described in Section 2, is not received by the **bill date in the month after the original bill date**, **BellSouth** will provide written notice to <<customer_short_name>> that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts, **and all other amounts not in dispute that become past due subsequent to the issuance of the written notice (“Additional Amounts Owned”)**, is not received by the fifteenth (15th) calendar day following the date of the notice. In addition, **BellSouth** may, at the same time, provide written notice that **BellSouth** may

¹ If it would resolve the issue, BellSouth would be willing to agree to the following language: Payment Due. Payment for billed services sent electronically is due on or before the next bill date (Payment Due Date). If <<customer_short_name>> does not receive BellSouth's bill within eight (8) days of the bill date <<customer_short_name>> may notify its BellSouth billing contact. Upon BellSouth's notification to <<customer_short_name>> of a failure to receive a payment and <<customer_short_name>>'s determination that the bill has not been received, <<customer_short_name>> will inform BellSouth of the non-receipt of that particular bill. Although the actual bill date on the bill will not change as a result of such notification by <<customer_short_name>> or BellSouth's notification to <<customer_short_name>>, BellSouth shall waive late payment charges and defer normal collections for such payment for thirty (30) days after <<customer_short_name>>'s notification to BellSouth or BellSouth's notification to <<customer_short_name>>. Information required to apply payments must accompany the payment including the Billing Account Numbers (BAN) to which the payment is to be applied; the invoices paid; and the amount to be applied to each BAN and invoice (Remittance Information). Payment is considered to have been made when received by BellSouth.

Payment for billed services sent manually will be due on or before the next bill date and is payable in immediately available funds. Payment is considered to have been made when received by BellSouth.

discontinue the provision of existing services to <<customer_short_name>> if payment of such amounts, **and all other Additional Amounts Owed that become past due subsequent to the issuance of the written notice**, is not received by the thirtieth (30th) calendar day following the date of the initial notice. Upon request, BellSouth will provide information to <<customer_short_name>> of the Additional Amounts Owed that must be paid prior to the time periods set forth in the written notice to avoid suspension of access to ordering systems or discontinuance of the provision of existing services as set forth in the initial written notice.

Item No. 101, Issue No. 7-7 [Section 1.8.3]: How many months of billing should be used to determine the maximum amount of the deposit?

- 1.8.3 [BellSouth Version] The amount of the security shall not exceed two (2) month's estimated billing for new CLECs or actual billing for existing CLECs. Interest shall accrue per the appropriate BellSouth tariff on cash deposits.

Item No. 102, Issue No. 7-8 [Section 1.8.3.1]: Should the amount of the deposit BellSouth requires from CLEC be reduced by past due amounts owed by BellSouth to CLEC?

- 1.8.3.1 [BellSouth Version] The amount of the security due from <<customer_short_name>> shall be reduced by **the undisputed amounts due to <<customer_short_name>> by BellSouth pursuant to Attachment 3 of this Agreement that have not been paid by the Due Date at the time of the request by BellSouth to <<customer_short_name>> for a deposit. Within ten (10) days of BellSouth's payment of such undisputed past due amounts to <<customer_short_name>>, <<customer_short_name>> shall provide the additional security necessary to establish the full amount of the deposit that BellSouth originally requested.**

Item No. 103, Issue No. 7-9 [Section 1.8.6]: Should BellSouth be entitled to terminate service to CLEC pursuant to the process for termination due to non-payment if CLEC refuses to remit any deposit required by BellSouth within 30 calendar days?

- 1.8.6 [BellSouth Version].**Subject to Section 1.8.7 following,** in the event <<customer_short_name>> fails to remit to BellSouth any deposit requested pursuant to this Section within thirty (30) calendar days of <<customer_short_name>>'s receipt of such request, service to <<customer_short_name>> may be terminated in accordance with the terms of Section 1.7 and subtending sections of this Attachment, and any security deposits will be applied to <<customer_short_name>>'s account(s).